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Report of the Inter-Agency Support Group on Indigenous Issues on the special theme: "Territories, lands and natural resources"**

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* E/C.19/2007/1.

** The submission of the present report was delayed in order to include the most recent information.

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I. Policies and practices in selected intergovernmental organizations on territories, lands and natural resources

1. The Inter-Agency Support Group on Indigenous Issues decided to prepare a comparative document on instruments, policies and experience relating to special theme of the sixth session of the Forum: "Territories, lands and natural resources". The following is a selection of the contributions made by the participating organizations, set out according to the main provisions of the draft Declaration on the Rights of Indigenous Peoples.

2. This is not a complete exploration of the way in which different parts of the international system share the objectives expressed in the draft Declaration, for several reasons. First, not all of the organizations concerned submitted information to be taken into account in this paper. Second, the submissions that were received were often extremely detailed and could not be reproduced in extenso in the limited space of the present report. Third, not all of these organizations have explicit policies; it is necessary to draw on their experience, but it is difficult to relate the experiences of the different institutions to these policies in a way that conveys their full impact.

3. There are, however, important conclusions that can be drawn from this analysis:

(a) The organizations members of the Inter-Agency Support Group have already adopted explicit policies or consistent practices compatible with the main provisions of the draft declaration on lands, territories and resources. This reflects a consensus on the objectives of development policy that has been accepted by the member States of these organizations and by those countries that solicit and accept international assistance for these purposes.

(b) There are differences in approach, but they are minor variations on a consistent theme. Statements of coverage, such as which population groups are deemed "indigenous", "indigenous and tribal", "vulnerable minorities" or other, vary among these organizations, depending on the priorities of each organization and when their policies or other guiding instruments were adopted. Similarly, there are apparent differences in relation to free, prior and informed consent/consultation, which in practice are unlikely to make a substantial difference to activities on the ground. The organizations concerned have different working methods depending on whether their intent is to set international standards, to grant loans or other financial assistance, or to train their constituents, or to provide assistance with self-organization, and they are increasingly finding that there are avenues for joint or parallel work among themselves and with indigenous peoples. The accumulated experience of the more than a quarter century of collaboration among these organizations on this subject reveals, however, that there are no substantial differences in either coverage or approach.

II. Documentation

4. The following contains only extracts from inputs received from agencies and certainly does not capture the full flavour and nuance of more detailed conventions, policies and practice, which may be consulted in full on the website of the

secretariat (http://www.un.org/esa/socdev/unpfii/index.html). The official documents to which reference is made here include:

(a) International Labour Organization (ILO): Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries;

(b) United Nations Development Programme (UNDP) "UNDP and indigenous peoples: a policy of engagement" (2001);

(c) United Nations Educational, Scientific and Cultural Organization (UNESCO): 2006 Havana Communiqué on Cultural Mapping;

(d) World Bank: operational policy 4.10, January 2005. This policy should be considered together with other relevant World Bank policies, including those on environmental assessment (operational policy 4.01), natural habitats (operational policy 4.04), pest management (operational policy 4.09), physical cultural resources (operational policy 4.11), involuntary resettlement (operational policy 4.12), forests (operational policy 4.36) and the safety of dams (operational policy 4.37);

(e) Inter-American Development Bank (IADB): operational policy on indigenous peoples (operational policy 765) and on involuntary resettlement (operational policy 710).

5. Statements concerning policies, or extracts from organizations' evaluations for activities, are also cited here.

III. General approaches to indigenous peoples

6. Among these organizations, the policies and practices of several of them do not focus on indigenous peoples directly, or they cover subjects without specific reference to named population groups. Nevertheless, they usually find that in focusing on the poorest and most vulnerable populations, much of their work affects indigenous peoples directly. The following represent extracts of communications from these organizations.

A. United Nations Human Settlements Programme

7. Given the nature of its mandate, namely, to promote socially and environmentally sustainable towns and cities with the goal of providing adequate shelter for all the United Nations Human Settlements Programme (UN-Habitat) works towards improving living conditions, adequate shelter for all and sustainable human settlements development, while focusing on the needs of the poor and other vulnerable and disadvantaged groups, including indigenous peoples. The Habitat Agenda and other relevant international instruments and frameworks related to economic and social development and human rights provide guidance to the work of UN-Habitat. The main ongoing activities of UN-Habitat relevant to the needs of indigenous peoples are related to efforts to promote inclusiveness, social integration and the realization of housing rights in human settlements, such as activities towards the implementation of Millennium Development Goal 7, Target 11, the United Nations Housing Rights Programme, and the Global Land Tool Network.

B. International Fund for Agricultural Development

8. The International Fund for Agricultural Development (IFAD) is presently developing a policy to guide its engagement with land issues and help it address access to, and control of, land among the diverse groups of poor rural people. This will by no means be a normative policy on land in general, but a livelihoods and people-centred approach and principles of engagement, mindful of the specific and diverse dynamics regarding different groups of poor people and different country/local realities. In so doing, it will incorporate the concerns of indigenous peoples, as they are one of the principal groups it works for, especially in certain regions of the world.

C. United Nations Institute for Training and Research (UNITAR)

9. The United Nations Institute for Training and Research (UNITAR) Training Programme to Enhance the Conflict Prevention and Peacebuilding Capacities of Minority and Indigenous Peoples' Representatives focuses on strengthening the conflict analysis and negotiation skills of indigenous peoples' representatives from around the world. As conflict over land and resource issues and marginalization from political and economic processes are two of the most challenging areas indigenous peoples face, the majority of cases and simulations in the training focus on these issues. The programme reviews both rights-based and problem-solving negotiation processes to strengthen the capacity of indigenous representatives to analyse the root causes of conflict and engage in constructive dialogue with Governments, the private sector and other communities to resolve conflict in a mutually beneficial and sustainable manner.

IV. Rights to territories, lands and natural resources

Text of the draft Declaration

Article 25

Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources (...)

Article 26

1. Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.

2. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.

3. States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.

A. International Labour Organization

10. ILO Convention No. 169 states:

"Article 13

"1. In applying the provisions of this Part of the Convention governments shall respect the special importance for the cultures and spiritual values of the peoples concerned of their relationship with the lands or territories, or both as applicable, which they occupy or otherwise use, and in particular the collective aspects of this relationship.

"2. The use of the term 'lands' in Articles 15 and 16 shall include the concept of territories, which covers the total environment of the areas which the peoples concerned occupy or otherwise use.

"Article 14

"1. The rights of ownership and possession of the peoples concerned over the lands which they traditionally occupy shall be recognised. In addition, measures shall be taken in appropriate cases to safeguard the right of the peoples concerned to use lands not exclusively occupied by them, but to which they have traditionally had access for their subsistence and traditional activities. Particular attention shall be paid to the situation of nomadic peoples and shifting cultivators in this respect.

"2. Governments shall take steps as necessary to identify the lands which the peoples concerned traditionally occupy, and to guarantee effective protection of their rights of ownership and possession.

"3. Adequate procedures shall be established within the national legal system to resolve land claims by the peoples concerned."

B. World Bank

11. World Bank operational policy 4.10 states:

"2. The Bank recognizes that the identities and cultures of Indigenous Peoples are inextricably linked to the lands on which they live and the natural resources on which they depend. (...)

"16. Indigenous Peoples are closely tied to land, forests, water, wildlife, and other natural resources, and therefore special considerations apply if the project affects such ties. In this situation, when carrying out the social assessment and preparing the IPP/IPPF, the borrower pays particular attention to:

(a) the customary rights of the Indigenous Peoples, both individual and collective, pertaining to lands or territories that they traditionally owned, or customarily used or occupied, and where access to natural resources is vital to the sustainability of their cultures and livelihoods;

(b) the need to protect such lands and resources against illegal intrusion or encroachment;

(c) the cultural and spiritual values that the Indigenous Peoples attribute to such lands and resources; and

(d) Indigenous Peoples' natural resources management practices and the long-term sustainability of such practices.

"17. If the project involves (a) activities that are contingent on establishing legally recognized rights to lands and territories that Indigenous Peoples have traditionally owned or customarily used or occupied (such as land titling projects), or (b) the acquisition of such lands, the IPP sets forth an action plan for the legal recognition of such ownership, occupation, or usage. Normally, the action plan is carried out before project implementation; in some cases, however, the action plan may need to be carried out concurrently with the project itself. Such legal recognition may take the following forms:

(a) full legal recognition of existing customary land tenure systems of Indigenous Peoples; or

(b) conversion of customary usage rights to communal and/or individual ownership rights.

If neither option is possible under domestic law, the IPP includes measures for legal recognition of perpetual or long-term renewable custodial or use rights."

C. Inter-American Development Bank

12. Operational policy 765 of the Inter-American Development Bank (IADB) states:

"Operations that directly or indirectly affect the legal status, possession, or management of territories, lands, or natural resources traditionally occupied or used by indigenous peoples will include specific safeguards, consistent with the applicable legal framework regarding ecosystem and land protection. One of those safeguards is respect for the rights recognized in accordance with the applicable legal norms."

13. IADB operational policy 765 states:

"In view of the exceptional nature of uncontacted indigenous peoples, also known as "peoples in voluntary isolation," as well as their special vulnerability and the impossibility of applying prior consultation and good faith negotiation mechanisms, the Bank will only finance projects that respect the right of these peoples to remain in said isolated condition and to live freely according to their culture. In order to safeguard the collective and individual physical, territorial, and cultural integrity of these peoples, projects that may have potential impacts on these peoples, their lands and territories, or their way of life will have to include the appropriate measures to recognize, respect

and protect their lands and territories, environment, health and culture, and to avoid contact with them as a consequence of the project."

D. United Nations Development Programme

14. There are two overall objectives of UNDP engagement with indigenous peoples and their organizations.

(a) To foster an enabling environment that promotes indigenous peoples' participation in all decision-making levels; ensures the co-existence of their economic, cultural, and socio-political systems with others; and develops the capacity of Governments to build more inclusive policies and programmes;

(b) To integrate indigenous peoples' perspectives and concepts of development into UNDP work.

E. International Fund for Agricultural Development

15. In the country strategic opportunity paper of Ecuador, IFAD states that the transfer of land in environmentally fragile, protected areas requires accommodating the legal framework to conform with the unique access to those lands by indigenous communities based on ancestral rights.

V. Involuntary resettlement

Text of the draft Declaration

Article 8

2. States shall provide effective mechanisms for prevention of, and redress for: (...)

(b) Any action which has the aim or effect of dispossessing them of their lands, territories or resources;

(c) Any form of forced population transfer which has the aim or effect of violating or undermining any of their rights;

(...)

Article 10

Indigenous peoples shall not be forcibly removed from their lands and territories. No relocation shall take place without the free, prior and informed consent of the peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.

A. International Labour Organization

16. ILO Convention No. 169 states:

"Article 16

"1. Subject to the following paragraphs of this Article, the peoples concerned shall not be removed from the lands which they occupy.

"2. Where the relocation of these peoples is considered necessary as an exceptional measure, such relocation shall take place only with their free and informed consent. Where their consent cannot be obtained, such relocation shall take place only following appropriate procedures established by national laws and regulations, including public inquiries where appropriate, which provide the opportunity for effective representation of the peoples concerned.

"3. Whenever possible, these peoples shall have the right to return to their traditional lands, as soon as the grounds for relocation cease to exist."

B. World Bank

17. World Bank operational policy 4.10 states:

"20. Because physical relocation of Indigenous Peoples is particularly complex and may have significant adverse impacts on their identity, culture, and customary livelihoods, the Bank requires the borrower to explore alternative project designs to avoid physical relocation of Indigenous Peoples. In exceptional circumstances, when it is not feasible to avoid relocation, the borrower will not carry out such relocation without obtaining broad support for it from the affected Indigenous Peoples' communities as part of the free, prior, and informed consultation process. In such cases, the borrower prepares a resettlement plan in accordance with the requirements of OP 4.12, Involuntary Resettlement, that is compatible with the Indigenous Peoples' cultural preferences, and includes a land-based resettlement strategy."

C. Inter-American Development Bank

18. IADB operational policy 710, section IV, paragraph 4, states:

"The Bank will, therefore, only support operations that involve the displacement of indigenous communities or other low income ethnic minority communities, if the Bank can ascertain that:

- the resettlement component will result in direct benefits to the affected community relative to their prior situation;
- customary rights will be fully recognized and fairly compensated;
- compensation options will include land-based resettlement; and
- the peoples affected have given their informed consent to the resettlement and compensation measures."

VI. Rights to compensation and redress

Text of the draft Declaration

Article 28

1. Indigenous peoples have the right to redress, by means that can include restitution or, when this is not possible, of a just, fair and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent.

2. Unless otherwise freely agreed upon by the peoples concerned, compensation shall take the form of lands, territories and resources equal in quality, size and legal status or of monetary compensation or other appropriate redress.

Article 32

3. States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.

A. International Labour Organization

19. ILO Convention No. 169 states:

"Article 16

...

"3. Whenever possible, these peoples shall have the right to return to their traditional lands, as soon as the grounds for relocation cease to exist.

"4. When such return is not possible, as determined by agreement or, in the absence of such agreement, through appropriate procedures, these peoples shall be provided in all possible cases with lands of quality and legal status at least equal to that of the lands previously occupied by them, suitable to provide for their present needs and future development. Where the peoples concerned express a preference for compensation in money or in kind, they shall be so compensated under appropriate guarantees.

"5. Persons thus relocated shall be fully compensated for any resulting loss or injury."

B. World Bank

20. World Bank operational policy 4.10, paragraph 20, states:

"Where possible, the resettlement plan should allow the affected Indigenous Peoples to return to the lands and territories they traditionally owned, or customarily used or occupied, if the reasons for their relocation cease to exist."

C. Inter-American Development Bank

21. IADB operational policy 765 states:

"Where legal or administrative protection is insufficient to ensure that the project will not directly or indirectly cause the deterioration of the physical integrity or legal status of the affected lands, territories or resources, the project will include the pertinent restrictions or corrective or compensatory measures. (...)

VII. Environmental rights

Text of the draft Declaration

Article 29

1. Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. States shall establish and implement assistance programmes for indigenous peoples for such conservation and protection, without discrimination.

2. States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of indigenous peoples without their free, prior and informed consent.

3. States shall also take effective measures to ensure, as needed, that programmes for monitoring, maintaining and restoring the health of indigenous peoples, as developed and implemented by the peoples affected by such materials, are duly implemented.

A. International Labour Organization

22. ILO Convention No. 169 states:

"Article 7

...

"3. Governments shall ensure that, whenever appropriate, studies are carried out, in co-operation with the peoples concerned, to assess the social, spiritual, cultural and environmental impact on them of planned development activities. The results of these studies shall be considered as fundamental criteria for the implementation of these activities.

"4. Governments shall take measures, in co-operation with the peoples concerned, to protect and preserve the environment of the territories they inhabit."

B. World Bank

23. For further information, see World Bank operational policy 4.10 as quoted above.

C. Inter-American Development Bank

24. IADB operational policy 765 states that IADB will seek to address development with identity, including by:

"(e) Strengthening of titling and physical management processes for territories, lands and natural resources traditionally occupied or used by indigenous peoples, in accordance with applicable legal norms, and with environmental protection objectives. These processes include the promotion of sustainable cultural land uses, the promotion of investment in community assets and productive projects in indigenous areas, and indigenous environmental management of their lands and territories."

D. United Nations Development Programme

25. UNDP recognizes the profound relationship indigenous peoples have to their environment, land and resources. Indigenous lands are increasingly under threat by development and the introduction of new policies and laws that do not acknowledge indigenous customary rights. UNDP also respects livelihoods based on pastoralism, hunting and gathering, and shifting cultivation lifestyles.

26. With regard to indigenous knowledge, indigenous peoples number over 300 million, and represent over 4,000 languages and cultures. Indigenous cultures comprise a heritage of diverse knowledge and ideas that is a resource for the whole world. As UNDP pursues sustainable human development, attention has been focused on indigenous peoples largely owing to their sustainable development practices. This has led to an interest in indigenous peoples' ways of life, their cultures, sciences, land and resource management, governance, political and justice systems, knowledge and healing practices. Recognition of indigenous peoples' assets and traditional knowledge can be helpful to national and international development. Indigenous peoples' continued existence is a testimony to the sustainability and viability of indigenous economic production systems and social and governance practices that should be supported, enhanced and, most importantly, incorporated into mainstream development practices.

E. International Fund for Agricultural Development

27. In the Asia and the Pacific regional paper, IFAD states that forests and biological diversity are among the most important assets of upland areas. Indigenous peoples have always possessed knowledge of these rich resources, but their

stewardship of biodiversity and their skills and interest in managing this resource have seldom been recognized. If poverty reduction is a goal of IFAD, then there is an urgent need to make the forest dwellers co-owners of the forests and, as mentioned, to reward them for the environmental services they provide.

28. Experience from IFAD-funded projects indicates that the concept of integrated natural resource management adapts well to indigenous peoples' holistic approach to development. Since the mid-1990's, most projects had success in improving the quantity and quality of agricultural production through the development of environmentally sustainable cultivation practices. An example is the Management of Natural Resources in the Southern Highlands Project in Peru (1997-2005), where the attention of the Project was focused on indigenous peoples and, in particular, on their perceptions of family and community, since natural resources management starts from people's homes, gardens and stables and progressively includes the natural surroundings. Such approach had a very positive impact on natural resources management.

VIII. Rights to development

Text of the draft Declaration

Article 32

1. Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.

(...)

3. States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.

A. International Labour Organization

29. ILO Convention No. 169 states:

"Article 7

"1. The peoples concerned shall have the right to decide their own priorities for the process of development as it affects their lives, beliefs, institutions and spiritual well-being and the lands they occupy or otherwise use, and to exercise control, to the extent possible, over their own economic, social and cultural development. In addition, they shall participate in the formulation, implementation and evaluation of plans and programmes for national and regional development which may affect them directly.

"2. The improvement of the conditions of life and work and levels of health and education of the peoples concerned, with their participation and

co-operation, shall be a matter of priority in plans for the overall economic development of areas they inhabit. Special projects for development of the areas in question shall also be so designed as to promote such improvement."

B. World Bank

30. World Bank operational policy 4.10 states:

"22. In furtherance of the objectives of this policy, the Bank may, at a member country's request, support the country in its development planning and poverty reduction strategies by providing financial assistance for a variety of initiatives designed to: (...)

"(b) make the development process more inclusive of Indigenous Peoples by incorporating their perspectives in the design of development programs and poverty reduction strategies, and providing them with opportunities to benefit more fully from development programs through policy and legal reforms, capacity building, and free, prior, and informed consultation and participation;

(c) support the development priorities of Indigenous Peoples through programs (such as community-driven development programs and locally managed social funds) developed by governments in cooperation with Indigenous Peoples; (...)

"(e) prepare participatory profiles of Indigenous Peoples to document their culture, demographic structure, gender and intergenerational relations and social organization, institutions, production systems, religious beliefs, and resource use patterns;

(f) strengthen the capacity of Indigenous Peoples' communities and IPOs to prepare, implement, monitor, and evaluate development programs;

(g) strengthen the capacity of government agencies responsible for providing development services to Indigenous Peoples;

(h) protect indigenous knowledge, including by strengthening intellectual property rights; and

(i) facilitate partnerships among the government, IPOs, CSOs, and the private sector to promote Indigenous Peoples' development programs."

C. Inter-American Development Bank

31. IADB operational policy 765 requires the Bank to use its best efforts to promote the development with identity of indigenous peoples.

32. IADB operational policy 765 states:

"Development with identity of indigenous peoples refers to a process that includes the strengthening of indigenous peoples, harmony with their environment, sound management of territories and natural resources, the generation and exercise of authority, and respect for indigenous rights,

including the cultural, economic, social and institutional rights and values of indigenous peoples in accordance with their own worldview and governance."

33. IADB operational policy 765 states:

"*Mainstreaming specifically indigenous issues in development agendas through independent operations*. The Bank will seek to support the initiatives of governments and indigenous peoples designed to promote indigenous social, economic, political, and organizational development through socioculturally appropriate activities and operations and innovative mechanisms."

D. United Nations Development Programme

34. The UNDP human rights policy recognizes the rights of distinct peoples living in distinct regions to self-determined development and control of ancestral lands. This embraces a concept of development that incorporates indigenous peoples' own aspirations, spirituality, culture, social and economic aims.

IX. Right to consultation, participation and consent

Text of the draft Declaration

Article 26

3. States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.

Article 27

States shall establish and implement, in conjunction with indigenous peoples concerned, a fair, independent, impartial, open and transparent process, giving due recognition to indigenous peoples' laws, traditions, customs and land tenure systems, to recognize and adjudicate the rights of indigenous peoples pertaining to their lands, territories and resources, including those which were traditionally owned or otherwise occupied or used. Indigenous peoples shall have the right to participate in this process.

Article 32

2. States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of their mineral, water or other resources.

A. International Labour Organization

35. ILO Convention No. 169 states:

"Article 6

"1. In applying the provisions of this Convention, Governments shall:

(a) Consult the peoples concerned, through appropriate procedures and in particular through their representative institutions, whenever consideration is being given to legislative or administrative measures which may affect them directly;

(b) Establish means by which these peoples can freely participate, to at least the same extent as other sectors of the population, at all levels of decision-making in elective institutions and administrative and other bodies responsible for policies and programmes which concern them;

(c) Establish means for the full development of these peoples' own institutions and initiatives, and in appropriate cases provide the resources necessary for this purpose.

"2. The consultations carried out in application of this Convention shall be undertaken, in good faith and in a form appropriate to the circumstances, with the objective of achieving agreement or consent to the proposed measures."

B. Inter-American Development Bank

36. IADB operational policy 765 states that the Bank will seek to address development with identity, including:

"(f) In natural resource management and extraction and protected area management projects, the *promotion of mechanisms for appropriate consultation, participation in natural resources management, and benefit sharing* by the indigenous peoples on whose lands and territories the projects are conducted."

C. World Bank

37. World Bank operational policy 4.10 states:

"10. *Consultation and Participation.* Where the project affects Indigenous Peoples, the borrower engages in free, prior, and informed consultation with them. To ensure such consultation, the borrower:

(a) establishes an appropriate gender and intergenerationally inclusive framework that provides opportunities for consultation at each stage of project preparation and implementation among the borrower, the affected Indigenous Peoples' communities, the Indigenous Peoples Organizations (IPOs) if any, and other local civil society organizations (CSOs) identified by the affected Indigenous Peoples' communities;

(b) uses consultation methods appropriate to the social and cultural values of the affected Indigenous Peoples' communities and their local

conditions and, in designing these methods, gives special attention to the concerns of Indigenous women, youth, and children and their access to development opportunities and benefits; and

(c) provides the affected Indigenous Peoples' communities with all relevant information about the project (including an assessment of potential adverse effects of the project on the affected Indigenous Peoples' communities) in a culturally appropriate manner at each stage of project preparation and implementation.

"11. In deciding whether to proceed with the project, the borrower ascertains, on the basis of the social assessment and the free, prior, and informed consultation, whether the affected Indigenous Peoples' communities provide their broad support to the project."

D. Inter-American Development Bank

38. IADB operational policy 765 states:

"Operations that directly or indirectly affect the legal status, possession, or management of territories, lands, or natural resources traditionally occupied or used by indigenous peoples will include specific safeguards, consistent with the applicable legal framework regarding ecosystem and land protection. One of those safeguards is respect for the rights recognized in accordance with the applicable legal norms. In projects for natural resource extraction and management and protected areas management, safeguards include: (i) prior consultation mechanisms to safeguard the physical, cultural, and economic integrity of the affected peoples and the sustainability of the protected areas and natural resources; (ii) mechanisms for the participation of indigenous peoples in the utilization, administration and conservation of these resources; (iii) fair compensation for any damage these peoples might suffer as a result of the project; and (iv) whenever possible, participation in project benefits."

E. United Nations Development Programme

39. By incorporating the "right to development" in its work, UNDP fosters the full participation of indigenous peoples in its development processes and the incorporation of indigenous perspectives in development planning and decision-making. This right is of particular significance to indigenous peoples because in their experience, development has tended to be imposed upon their communities from outside, often resulting in violations of their "right to development" by damaging ancestral lands, water and natural resources. In accordance with United Nations conventions, UNDP promotes and supports the right of indigenous peoples to free, prior informed consent with regard to development planning and programming that may affect them.

F. International Fund for Agricultural Development

40. Regarding access to land and property rights in Latin America and the Caribbean, IFAD maintains that if the production base of the rural poor in Latin America and the Caribbean is to be improved, problems concerning access to land will need to be solved. Although agrarian reform based on the expropriation of land is no longer viable, the establishment of markets for land leasing, new types of sharecropping arrangements and contractual agreements for the use of communal forests or indigenous territories provide new opportunities for gaining access to land.

41. IFAD maintains that security of land tenure in Asia and the Pacific, if properly implemented, provides incentives for long-term investment. This is corroborated by the experience of IFAD in many countries. The main success in India was the survey and land settlement of the hill areas, which had been occupied without legal rights. The resulting sense of ownership was accompanied by a notable improvement in natural resource management, demonstrating that tribal populations are willing to replace shifting cultivation with agro-forestry if the returns are perceived to be higher.

42. In Asia, marginalization is linked to lack of access to land and land use-rights, resulting in income inequalities and social heterogeneity. IFAD will promote programmes to enhance access of marginal farmers and the landless to productive resources, such as land, water and forest. It will also promote self-employment through microfinance schemes, and wage employment through rural public works programmes to benefit marginal farmers and the landless.